

PSR - ADDENDUM

of the defendant's letter to the Probation Office and intends to have this issue clarified by the defendant. Until then, no changes have been made with respect to the adjustment for acceptance of responsibility.

OBJECTIONS**By the Government**

On 10/28/2005 AUSA William Shipley, filed the attached Sentencing Statement which indicates the following objections to the draft Presentence Report.

Paragraph 128: The government states that a 3-level enhancement under U.S.S.G. § 3A1.1 for vulnerable victim applies. In this regard, the government asserts that the defendant and Luu knew that victim Adelaida Soleta was an elderly lady who lived alone and was unable to attend to her own financial affairs. They took advantage of Soleta's condition by compromising both her bank and credit accounts knowing that it would not be discovered until a care giver closely inspected her statements. The government intends to provide the Probation Office with specific information pertaining to Soleta.

Response: The Probation Office has not yet received any evidence from the government to support its assertion that the 3-level enhancement under U.S.S.G. § 3A1.1 applies in this case. Until the Probation Office has had an opportunity to review the new information, no changes are made to paragraph 128.

Paragraph 129: The government asserts that a 4-level enhancement for playing a leadership role in the offense applies because the defendant directed the activities of both Luu and his wife.

Response: The statements provided by Luu regarding the defendant's role in the offense have not been corroborated by a second source. Therefore, the available evidence does not establish by a preponderance that the defendant was a leader or organizer of the offense. Consequently, no changes have been made to paragraph 129.